

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	

**REPLY COMMENTS OF THE
CELLULAR TELECOMMUNICATIONS & INTERNET ASSOCIATION**

The Cellular Telecommunications & Internet Association (“CTIA”)¹ hereby submits the following reply comments in response to the request of the Federal-State Joint Board on Universal Service’s (“Joint Board”) request for comment on the Commission’s rules relating to High-Cost universal service support and the Eligible Telecommunications Carrier (“ETC”) designation process.²

The majority of comments submitted in this proceeding support the Commission’s policy of competitive and technological neutrality in the distribution of High-Cost support, which has led to new telecommunications products for millions of consumers in rural and insular areas. This progress should not be thwarted by baseless claims that competitive ETCs (“CETCs”) are “ballooning” the High-Cost Fund. In fact, as the facts

¹ CTIA is the international organization of the wireless communications industry for both wireless carriers and manufacturers. Membership in the organization covers all Commercial Mobile Radio Service (“CMRS”) providers and manufacturers, including cellular, broadband PCS, ESMR, as well as providers and manufacturers of wireless data services and products.

² See *Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission’s Rules Relating to High-Cost Universal Service Support and the ETC Designation Process, Public Notice*, CC Docket No. 96-45, FCC 03J-1 (rel. Feb. 7, 2003) (hereinafter “Public Notice”); see also *Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission’s Rules Relating to High-Cost Universal Service Support and the ETC Designation Process*, 68 Fed. Reg. 10,429 (March 5, 2003) (setting June 3, 2003 date for reply comments).

presented in this proceeding clearly indicate, wireless CETCs receive only a fraction of total High-Cost funds. Therefore, if the growth of the High-Cost fund is to be limited, policymakers should focus on the entities that are projected to receive approximately \$3.2 billion in High Cost funding in 2003 – the incumbent rural LECs.

Furthermore, the record in this proceeding clearly indicates that wireless CETCs are fulfilling the mandate of the Telecommunications Act of 1996 by offering innovative telecommunications services that were previously unavailable in areas served by the rural monopolies. This is not the time to pare back on the remarkable progress that has been made in bringing competitive telecommunications markets to rural areas. Accordingly, the Joint Board should use this opportunity to reaffirm the Commission’s existing High-Cost rules, which have brought new competition and services to millions of rural Americans.

I. RURAL LECs ARE RESPONSIBLE FOR THE VAST MAJORITY OF HIGH-COST FUND GROWTH

In the initial comments, certain organizations representing rural LECs repeated the rather tired assertion that increased competition and portability of High-Cost funds will somehow undermine the entire system of Universal Service funding. The Organization for the Promotion and Advancement of Small Telecommunications Companies (“OPASTCO”), for instance, claims that “the size of the High-Cost program will grow to an unsustainable level in a relatively short amount of time, if the current support portability rules and CETC designation practices for rural service areas remain unchanged.”³ Similarly, the National Telecommunications Cooperative Association

³ Comments of the Organization for the Promotion and Advancement of Small Telecommunications Companies at 4.

(“NTCA”) states that entry of competitive carriers has led to “the rapid ballooning of the high-cost universal service fund.”⁴ These claims are simply not true.

As a number of parties detailed in initial comments, the simple fact remains that the amount of High-Cost support received by rural incumbent LECs has substantially increased in recent years, and continues to account for the vast majority of High-Cost fund distributions.⁵ In its initial comments, CTIA noted that wireless ETCs received less than \$1.5 million in High-Cost support in 2000, compared to the almost \$2.03 billion in High-Cost funding received by rural LECs during the same period.⁶ Furthermore, even using the most optimistic growth projections, wireless ETC funding will rise to, at most, approximately \$102 million in 2003, compared to approximately \$3.2 billion in High-Cost funding that rural LECs will receive during the same time period.⁷ Taken as a whole, the Rural Cellular Association and the Alliance of Rural CMRS Carriers (“RCA-ARC”) note that while wireless ETCs will receive approximately \$175 million in additional High-Cost support during the three-year period from 2000 to 2003, “during the

⁴ Comments of the National Telecommunications Cooperative Association at 10.

⁵ See Comments of Nextel Communications, Inc. and Nextel Partners, Inc. at 8 (hereinafter “Nextel Comments”) (noting that “universal service high cost support to the ILECs soared” from 2000 to 2003); Comments of Western Wireless Corporation, Attachment D – “The Myths and Realities of the Impact of CETCs on the High Cost Federal Universal Service Fund,” at 6 (demonstrating that “USF growth is not largely attributable to increasing numbers of new carriers seeking support, but instead is attributable to additional support provided to the ILECs”); Comments of the Rural Cellular Association and the Alliance of Rural CMRS Carriers at 7-8 (hereinafter “RCA-ARC Comments”); Comments of Sprint Corporation at 5-7.

⁶ See Comments of the Cellular Telecommunications & Internet Association at 4.

⁷ See *id.* at 4-5.

same three year period, *ILECs [will] have increased their take from the fund by \$2.7 billion.*”⁸

Accordingly, any effort to control the growth of the High-Cost fund should be squarely focused on the entities that are actually causing the growth – the rural LECs. In this context, CTIA supports two changes to the overall High-Cost support methodology. First, CTIA agrees with Nextel Communications, Nextel Partners and Western Wireless that the Joint Board should build upon the work of the Rural Task Force, and move rapidly towards creating a funding system based on forward-looking costs.⁹ The current system, which allows rural LECs to recover embedded costs, continues to subsidize inefficient practices and retard innovation. By recommending a faster transition to a forward-looking cost methodology, the Joint Board would not only lower High-Cost funding requirements, but also allocate High-Cost funds in a manner that rewards innovative and efficient practices.

In addition, CTIA supports Joint Board consideration of proposals to cap High-Cost funding on a per-line basis in competitive study areas. The Rural Task Force endorsed this concept during the course of its deliberations.¹⁰ While the *Rural Task Force Order* declined to adopt the concept, it did state that the Commission would

⁸ RCA-ARC Comments at 7.

⁹ See Nextel Comments at 11-14; Comments of Western Wireless Corporation, Attachment I – “Proposal for a Competitive and Efficient Universal Service High Cost Funding Model/Platform,” at 3.

¹⁰ See *Federal-State Joint Board on Universal Service, Recommended Decision*, 16 FCC Rcd 6153, 6217 (Appendix A) (2000) (“In study areas where a CETC has been approved and the CETC is providing service, universal service support payments per loop to the ILEC and CETC serving the same area should be the same and should be determined by freezing the ILEC support per loop.”).

continue to “closely monitor” the issue.¹¹ As Nextel notes, such a cap “would undoubtedly encourage competitive build-out in rural and high-cost areas,” while helping to restrict High-Cost fund growth caused by rural LECs.¹² Furthermore, as Western Wireless notes, the imposition of a cap would also limit fund growth in the same manner as a “single line” funding restriction – without creating a burdensome and potentially anti-competitive system to track “primary” lines.¹³

II. THE RECORD IN THIS PROCEEDING CLEARLY INDICATES THE SIGNIFICANT PUBLIC INTEREST BENEFITS PROVIDED BY WIRELESS ETCs

Competitive neutrality and portability of USF support are concepts mandated by the 1996 Act. However, as the comments submitted in this proceeding indicate, the Commission’s portability rules also help further the overall public interest by bringing advanced telecommunications services to many rural and insular areas that have long suffered from extremely low telephone penetration rates.

Smith Bagley, Inc. (“SBI”), for instance, notes that since June 2001, it has signed up over 28,000 people on Native American lands in Arizona and New Mexico.¹⁴ Of those 28,000, SBI notes that “roughly 76%, or 21,000, did not have telephone service of

¹¹ *Federal-State Joint Board on Universal Service, Fourteenth Report and Order, Twenty-Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket No. 96-45, and Report and Order in CC Docket No. 00-256*, 16 FCC Rcd 11244, 11294 (2001).

¹² Nextel Comments at 17.

¹³ *See* Western Wireless Comments, Attachment J – “Policy Analysis of Changes to the Universal Service Support System in a Competitive Environment,” at 8 (suggesting implementation of a slightly modified version of the cap recommended by the Rural Task Force that would cap funds but allow for some additional funds based on “increase[s] in teledensity (telephone penetration), as well as inflation and population growth”).

¹⁴ *See* Comments of Smith Bagley, Inc. at 4.

any kind” before they signed up for SBI’s VisionOne service.¹⁵ Furthermore, Western Wireless notes in its comments that the residents of the Reese River Valley and Antelope Valley in rural Nevada did not have access to *any* local telephone service prior to Western Wireless’ entry into that market.¹⁶

In *Allenco Communications, Inc. v. FCC*, the United States Court of Appeals for the Fifth Circuit pointed out that the critical function of the Universal Service program is “to benefit the customer, not the carrier.”¹⁷ The examples noted above – along with numerous other examples provided by parties in this proceeding – demonstrate that the Commission’s current portability rules are benefiting consumers. Accordingly, CTIA urges the Joint Board not to stifle the development of true competition in rural and insular markets by changing rules that have provided clear benefits to consumers. Furthermore, to the extent the Joint Board believes that any changes are necessary, CTIA urges the Joint Board to request that the Commission create a “Second Rural Task Force” so the proposed changes can be examined by all stakeholders, including the rural and insular consumers that could be adversely affected by the changes.

¹⁵ *Id.*

¹⁶ See Western Wireless Comments, Attachment F – “Universal Service Profile of Reese River Valley and Antelope Valley, Nevada” (noting that wireline service “is not available in this “unserved” area of Nevada within Nevada Bell’s service area”); *see also* RCA-ARC Comments at 15-16 (noting new service offerings provided by Cellular South and N.E. Colorado Cellular through receipt of High-Cost support).

¹⁷ 201 F.3d 608, 616 (5th Cir. 2000).

CONCLUSION

For the aforementioned reasons, CTIA urges the Joint Board to maintain the Commission's current ETC portability rules. In addition, CTIA requests that the Joint Board review possible changes to the High-Cost funding mechanisms, including a transition to a forward-looking cost methodology and a cap on per-line funds in competitive study areas.

Respectfully submitted,

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